

Calendar No. 1826

82D CONGRESS
2d Session

SENATE

REPORT
No. 1928

PROFESSIONAL ARTS BUILDING CORP.

JUNE 27, 1952.—Ordered to be printed

Mr. McCARRAN, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 3727]

The Committee on the Judiciary, to which was referred the bill (H. R. 3727) for the relief of the Professional Arts Building Corp., having considered the same, reports favorably thereon, without amendment, and recommends that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to pay the sum of \$6,000 to the Professional Arts Building Corp., of Atlantic City, N. J., in full settlement of all claims against the United States by reason of damages suffered by the said corporation resulting from the reconstruction of the Professional Arts Building in Atlantic City, at the direction of the Veterans' Administration of the United States, and from loss of occupancy in such building, all occasioned by the failure of the Veterans' Administration to enter into a lease with the said corporation after requiring such reconstruction and the removal of tenants from the building.

STATEMENT

The claimant was and is the owner of the Professional Arts Building, an eight-story modern fireproof building, favorably located at 1616 Atlantic Avenue, Atlantic City, N. J., and occupied mainly by the professional offices of doctors, dentists, and lawyers. The operating agent of the building is Albert M. Greenfield & Co., of which Rudolph J. Bushell is resident vice president.

In June 1945, Mr. White, an authorized representative of the Veterans' Administration, from the Lyons, N. J., office, visited Mr. Bushell in Atlantic City, looking for building space for use by the Veterans' Administration. Shortly thereafter, on June 21, 1945, Mr. Homer Rogers, then regional manager for the Veterans' Administration in New Jersey, telephoned Mr. Bushell for information concerning the building, and was furnished a booklet and a floor plan showing partitions and space. Following this, Mr. White again came to Atlantic City and stated that he had inspected other buildings, but the Veterans' Administration wanted space in the claimant's building, because, among other reasons, the building was fireproof and modern; the space was superior; the facilities included both 110- and 220-volt electricity, as well as gas and compressed air; and it was largely occupied by medical offices; all of which were advantageous to the establishment of a Veterans' Administration medical clinic.

Mr. White presented a sample form of proposal and instructed that it be sent to Mr. Rogers, the regional manager, and emphasized that the required space must be made available about November 1, 1945, because the numerous military stations located in Atlantic City and then furnishing clinical facilities for veterans were closing in the immediate future. Accordingly, Mr. Bushell forwarded the proposal for eighth-floor space on July 3, 1945, and on July 17, Government leases in conformity with the proposal were forwarded by the Veterans' Administration for execution.

Such leases were not executed because Mr. White then commenced negotiations for additional space on the eighth floor, which were apparently satisfactory, since on September 4, 1945, Mr. White returned to Atlantic City and assisted in the preparation of new proposals covering the additional space. Such proposals imposed upon the owner an open commitment to cancel or to purchase leases not expiring by November, 1945; and to extensively remodel and thereafter repair the seventh and eighth floors to suit the requirements of the Veterans' Administration.

Pursuant to this proposal, the Veterans' Administration on September 19, 1945, sent five copies of a formal lease; and, relying thereon, the owner immediately started preparing the seventh and eighth floors for occupancy by the Veterans' Administration, removing civilian tenants and remodeling the building, all of which was completed just before November 1.

While the work was in progress, civilian personnel of the Veterans' Administration, as well as uniformed Army officers, visited the building, generally supervising the work and expressing satisfaction with its progress. The work was being done with the knowledge of both Mr. White and Mr. Rogers, who at no time intimated that the Veterans' Administration had decided not to take possession.

Notwithstanding the whole course of conduct by agents of the Government, which was such as to induce the claimant to proceed with alterations on its property, the leases were never executed. Further, no effort has been made to compensate claimant for losses suffered by this corporation which acted in good faith and in expectation that such leases would be formalized.

The Veterans' Administration opposes enactment of the instant bill on the ground that the reconstruction and removal of tenants was not effected at the direction of the Veterans' Administration, but

was voluntarily performed by the Professional Arts Building Corp. or their agent on their own initiative. The Veterans' Administration further states that claimant did not pursue its legal remedy in the courts to final judgment.

The Comptroller General of the United States, in a decision rendered April 20, 1950, disallowed the claim on the grounds that claimant's proposal was never accepted or a lease approved, and that claimant was never notified of any action by the Veterans' Administration which would constitute an acceptance of the lease.

The committee is of the opinion that the report of the Veterans' Administration and the Comptroller General lose sight of the equities presented by this claim.

The committee feels very strongly, that an equitable basis exists, calling for compensation to the claimant.

It is undisputed that claimant was induced upon representations made to it that the Veterans' Administration would take this space, and in reliance thereupon, made alterations to specifications, removed tenants and made space available for occupancy on November 1, 1945. According to the Veterans' Administration's own report, claimant returned the executed lease form on November 15, 1945, and nothing further was heard from the Veterans' Administration until January 10, 1946, when it was determined that the space offered would be inadequate for the needs of the Veterans' Administration. In their communication of January 10, 1946, the Veterans' Administration stated they would be interested if an additional 10,000 square feet could be made available. However, the Veterans' Administration does not point out that they were on notice that the premises had been readied and tenants removed at their own deadline date, November 1, 1945. Yet, with full realization that the premises had been made available the Veterans' Administration waited 3 months and then stated they were interested only if they could have additional space.

The committee is of the further opinion that an injustice has been done and that the claimant should not be forced to bear this out-of-pocket loss occasioned by a Government agency which could not make a determination as to the space needed for its activities. Therefore, the committee agrees that claimant is entitled to reasonable compensation for the losses sustained.

The committee is in agreement with the House Judiciary Committee that the sum of \$6,000 is reasonable compensation, and therefore recommends favorable consideration of this bill (H. R. 3727).

The report of the Veterans' Administration and affidavits submitted by claimant are contained in House Report No. 1950 (82d Cong.), which is incorporated herein by reference.

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